GOVERNMENT OF ANDHRA PRADESH
A B S T R A C T

Suits – Arbitration – An amount of Rs.2,30,00,000/-as full and final settlement of claims in O.S.No.3/2005 on the file of the IIIrd Addl.District Judge, Kurnool at Nandyal in respect of the work relating to " Earth work Excavation, lining of canal and construction of structures on Zillella Major, its minors and sub.minors in block No.7 of SRBC" entrusted to M/s J.K.Constructions, Hyderabad, vide Agreement No. No.4SE/ 98-99 dated 18.05.1998 – Sanctioned – Orders – Issued.

WATER RESOURCES (ARB) DEPARTMENT

G.O.MS.No. 86 **Dated:11 .08.2015.**
Read the following:-

1) From the Hon'ble High Court of A.P. Hyderabad judgement dt. 29-01-2015 in A.S.No.872 of 2011.

2) From Managing Partner, M/s JK Constructions, Hyderabad, Lr.dt.13-02-2015

3) From the Engineer-in-Chief (I)Hyderabad, Lr.No. ENC (I) / DCE (GDS) / OT2 / AEE4 / ARB / Block No.7 of SRBC, dt.1-06-2015

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O R D E R:-

The Engineer-in-Chief (I) Hyderbad in his letter 3rd read above, has reported that the work relating to " Earth work Excavation, lining of canal and construction of structures on Zillella Major, its minors and sub.minors in block No.7 of SRBC" entrusted to M/s J.K.Constructions, Hyderbad, vide Agreement No. No.4SE/ 98-99 dated 18.05.1998.

2. The contractor represented to the department on 25-08-1999 for payment of claims of Rs 344 lakhs, being absolute idle charges for machinery and men from June. 98 to January, 99 and partial idle from February, 99 to June, 1999. The department rejected the claim on 16-03-2000. The contractor referred the matter to the Technical Expert on 27-03-2000. The Technical expert gave his decision on 21-04-2000 and instructed the department to ascertain the number of men and machinery available with the department records and arrive the idle cost of men and machinery, in addition to the over head cost incurred by the contractor at 10% of total financial programme of idle period and also directed for payment of said amount so arrived at with interest @12% p.a from the date of rejection by the department (16-03-2000) till date of payment.The department filed a suit OS No.6/2001 originally at Kurnool and now renumbered as OS No.23/2003 on the file of IIIrd Addl. District Court at Nandyal to set aside the decision of the Technical Expert.

3. The Contractor approached the court of law on different claims and filed suit OS No.3/2005 before IIIrd Addl. District Judge, Kurnool. After prolonged arguments on the above suit, the judgement was pronounced by the IIIrd Addl.District Judge, Kurnool at Nandyal in favour of contractor for the decree amount of Rs.3,69,28,762/- along with interest on the amount of Rs.2,80,64,167/- @6% P.A. from 16-06-2005 till date of realization along with payment of Suit cost of Rs.14,74,858/-.

P.T.O

4. Agrrieved with judgement of IIIrd Addl.District Judge, Kurnool at Nandyal, the Department Appealed Suit No.872/2011 in A.P.High Court Hyderabad on 27-09-2011 agains the judgement and decree in OS No.3/2005.

5. Mean while, the contractor again approached III Addl.District Judge, Kurnool at Nandyal and filed E.P.No.6/2012 for payment of decretal amount. The department filed a Stay Petition in Hon'ble High Court of A.P. Hyderbad against E.P. The Hon'ble High Court granted a conditional stay ordering deposit of 50% of decretal amount within 8 weeks. Accordingly, the department deposited an amount of Rs. 2,55,50,849/-.

6. Subsequently, the Hon'ble High Court in its judgement, dated 29-01-2015 in A.S.No.872/2011 has opined that in the interest of Justice and also in the interest of both parties to make an effort of conciliation to the effect of settlement and directed the Department/Contractor to approach the Principal Secretary to Government concerned by filing appropriate comprehensive represenation, the said authority shall hear both sides after giving notice and opportunity and make an effort to conciliate and settle the claim. In pursuance of these directions and on receipt of the representation from the Contracting firm, the matter has been referred to the Conciliation Committee concerned as constituted for the purpose vide G.O.Rt.No.792, dated 4-12-2014. The Committee has submitted the report.

7. After examination of the Committee report, all the disputed claims have been negotiated with the Contractor in the Conciliation meeting held on 18.05.2015 . .During the meeting, he has expressed his willingness to accept the lumpsum amount of Rs. .2,30,00,000/- as full and final settlement of all the claims including interest in respect of O.S.No.3/2005 and given a letter of acceptance.

8. After careful examination of the entire matter, it has been decided to accept the claim offered by the Contracting firm. Accordingly, Government hereby accord sanction of an amount of Rs. .2,30,00,000/- (Rupees Two crore and Thirty Lakhs only) as full and final settlement of all the claims including interest in O.S.No.3/2005 on the file of the IIIrd Addl.District Judge, Kurnool at Nandyal in respect of the work relating to " Earth work Excavation, lining of canal and construction of structures on Zillella Major, its minors and sub.minors in block No.7 of SRBC" entrusted to M/s J.K.Constructions, Hyderabad, vide Agreement No. No.4SE/ 98-99 dated 18.05.1998, subject to condition that the above said contracting firm should withdraw all legal proceedings pending in the Courts in respect of the above work against the Govt., or its representive Officer after realization of sanctioned amount .

.9. The expenditure sanctioned in para (08) above shall be debitable to the detailed Head of Account under " MJH 4700-SMJH01- MH 121 SRBC (NSRS) GH 11- NSP-SH 27 Canals and Distributaries- 530 Major works- 531 other expenditure(Charged).
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10. The Chief Engneer (P) Irrigation, Kurnool is directed to deposit the above sanctioned decretal amount to the credit of O.S.No.3/2005 on the file of the IIIrd Addl.District Judge, Kurnool at Nandyal, for avoiding further legal complications in the matter. He also directed to obtain a declaration on a notarized affidavits from the above Contracting firm stating that he shall withdraw all legal proceedings in respect of work covered under O.S.No.3/2005 against the Government of Andhra Pradesh or its representative after realization of accepted amount. Further, he is also directed to instruct the disbursing officer concerned to obtain declaration from the above contracting firm accepting the amount as full and final settlement of all its claims before deposting the above sanctioned amount in the respective court.

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11. This order issues with the concurrence of Finance (W&P) Department vide their U.O.No. 10764/162/W&P.II/15, dated 25.07.2015.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ADITYA NATH DAS
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Chief Engineer (P) Irrigation, Kurnool
The Superintending Engineer, Irrigation Circle , Nandyal
The Accountant General, A.P. Hyderbad
The District Treasury Officer, Kurnool
The Pay and Accounts Officer, Nandyal
M/s J.K.Constructions, 702, Bhanu Deluxe Towers, 7-1-26, Greenlands, Ameerpet, Hyderbad 500 016
Copy to
The P.S. to Minister (Water Resources)
The G.P. for Arbitration, High Court of A.P.Hyderabad
The P.S. to Prl.Secretary , Water Resources Department
The Law (A) Deptt.,
The Finance (W&P) Department
The Water Resources (P&B) Department with a request to release LOC/authorization for the expenditure sanctioned above.

// FORWARDED :: BY ORDER//

SECTION OFFICER